

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

A. C. a minor child, by his next friend, mother and) legal guardian, M.C.,)) Plaintiff,)) v.))	Case No. 1:21-cv-02965-TWP-MPB
METROPOLITAN SCHOOL DISTRICT OF) MARTINSVILLE, and) PRINCIPAL, JOHN R. WOODEN MIDDLE) SCHOOL in his official capacity,)) Defendants.))	

ENTRY

On August 23, 2023, the United States Court of Appeals for the Seventh Circuit issued its Mandate which affirmed the judgment of the District Court. ([Filing No. 88](#)). Thereafter, on October 11, 2023, a Petition for a Writ of Certiorari was filed with the Supreme Court of the United States, and was placed on the Supreme Court docket October 13, 2023, as No. 23-392. However, a review of the docket in the Seventh Circuit Court of Appeals does not reflect that a request for stay of the mandate in this case has been made or granted. (*See* No. 22-1786).

Under Federal Rule of Appellate Procedure 41(d)(2), a party must move the appellate court to stay a mandate pending a petition for a writ of certiorari. Specifically,

- (A) A party may move to stay the mandate pending the filing of a petition for a writ of certiorari in the Supreme Court. The motion must be served on all parties and must show that the certiorari petition would present a substantial question and that there is good cause for a stay.
- (B) The stay must not exceed 90 days, unless the period is extended for good cause or unless the party who obtained the stay files a petition for the writ and so notifies the circuit clerk in writing within the period of the stay. In that case, the stay continues until the Supreme Court's final disposition.

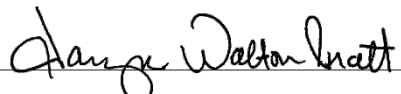
(C) The court may require a bond or other security as a condition to granting or continuing a stay of the mandate.

Federal Rule of Appellate Procedure 41(d)(2)(A)(B) and (C).

Here, it appears that no party has moved the Seventh Circuit to stay its Mandate, and this Court lacks authority to stay the Mandate. *In re A.F. Moore & Assocs., Inc.*, 974 F.3d 836 (7th Cir. 2020) (issuing writ of mandamus and vacating district court order staying Seventh Circuit mandate and staying proceedings pending resolution of petition for writ of certiorari). Likewise, no party has yet moved this Court to stay these proceedings pending disposition of the Petition for Writ of Certiorari. The Mandate therefore remains in effect, and this case remains active on this district court docket.¹

In addition, the parties failed to comply with Local Rule 16-2, which required the parties shall file their position statement within 21 days following issuance of a Mandate. By no later than **December 15, 2023**, the parties are ordered to comply with Local Rule 16-2; or provide notice of compliance with Federal Rule of Appellate Procedure 41(d)(2).

Date: 12/8/2023


Hon. Tanya Walton Pratt, Chief Judge
United States District Court
Southern District of Indiana

¹ A stay was ordered in the companion district court case No. 2:21-cv-00415-MBP-MG "pending the outcome of the U.S. Supreme Court proceedings in 1:21-cv-2965-TWP-TAB" (See [Filing No. 78](#)), but no stay has been requested or entered in this case.

DISTRIBUTION:

Kenneth J. Falk
ACLU OF INDIANA
kfalk@aclu-in.org

Megan Stuart
INDIANA LEGAL SERVICES, INC. (Bloomington)
megan.stuart@ilsa.net

Stevie J. Pactor
ACLU OF INDIANA
spactor@aclu-in.org

Jonathan Lamont Mayes
BOSE MCKINNEY & EVANS, LLP (Indianapolis)
jmayes@boselaw.com

Mark Wohlford
BOSE MCKINNEY & EVANS, LLP (Indianapolis)
mwohlford@boselaw.com

Philip R. Zimmerly
BOSE MCKINNEY & EVANS, LLP (Indianapolis)
pzimmerly@boselaw.com